



## **TECHNOLOGY COMMITTEE**

**Tuesday, January 13, 2004  
9:00 o'clock a.m.  
Fourth Floor, West Conference Room  
General Assembly Building  
Richmond, Virginia 23219**

### **APPEARANCES:**

#### **TECHNOLOGY COMMITTEE:**

**Delegate Clarke N. Hogan, *Committee Chairman***  
**Delegate Kathy J. Byron, *Vice Chairman***  
**Mr. Thomas W. Arthur**  
**Mr. L. Jackson Hite**  
**Mr. Claude B. Owen, Jr.**  
**Mr. Edward Owens**  
**Mr. H. Ronnie Montgomery**  
**The Honorable Mary Sue Terry**  
**Delegate Thomas C. Wright, Jr.**

#### **COMMISSION STAFF:**

**Mr. Carthan F. Currin, III, *Executive Director***  
**Tim Pfohl, *Grants Program Administration Manager***  
**Anne Marie Cushmac, *Senior Assistant Attorney General***  
**Tad Deriso - *Mid-Atlantic Broadband Cooperative, Inc.***

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**DELEGATE HOGAN:** Good morning. Would you call the roll, Carthan.

**MR. CURRIN:** Mr. Arthur?

**MR. ARTHUR:** Here.

**MR. CURRIN:** Mr. Hite?

**MR. HITE:** Here.

**MR. CURRIN:** Mr. Owen?

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1 **MR. OWEN:** Here.

2 **MR. CURRIN:** Mr. Owens?

3 **MR. OWENS:** Here.

4 **MR. CURRIN:** Mr. Montgomery?

5 **MR. MONTGOMERY:** Here.

6 **MR. CURRIN:** Senator Wampler?

7 **SENATOR WAMPLER:** (No response)

8 **MR. CURRIN:** Delegate Wright?

9 **DELEGATE WRIGHT:** Here.

10 **MR. CURRIN:** Ms. Terry?

11 **MS. TERRY:** Here.

12 **MR. CURRIN:** Vice Chair Delegate Byron?

13 **DELEGATE BYRON:** Here.

14 **MR. CURRIN:** Mr. Chairman.

15 **DELEGATE HOGAN:** Here. Is everybody happy, hopefully this won't take but a  
16 minute. As of January 20<sup>th</sup>, if we don't go ahead with the EDA funding, that's what we need to  
17 talk about. To the extent that we make that commitment, that's all we'll take action on today.  
18 We have an RFP out.  
19 Is David here?

20 **MR. DERISO:** I'm Tad Deriso from Mid-Atlantic, and Mr. Hudgins is not here yet.

21 **DELEGATE HOGAN:** Tad, do you want to give us an update on where you stand with  
22 MBC right now, the process?

23 **MR. DERISO:** Yes, we've produced two RFPs, and one for engineering services for the  
24 EDA portion of the project. We short-listed that down to five firms. We're going to interview  
25 February 5<sup>th</sup> down in South Boston. The purpose of that is basically to find an engineering firm  
26 that can design the network and develop it to the specifications and send it out to bid for  
27 contract, to go to the EDA-funded portion of the project.

28 The second piece of our RFP is for network operations management, maintenance, and all the  
29 various types of services that would be required. Once we get this fiber optic network cable in  
30 for all the counties, we need to get a group that has the capabilities and network operations  
31 center to be able to manage this network and make it work. Also to help to sell capacity on the  
32 network to bring revenue into MBC for all those various reasons.

33 **DELEGATE HOGAN:** That second RFP includes the A and E for everything other  
34 than the E58 portion?

35 **MR. DERISO:** That's right.

36 **DELEGATE HOGAN:** It includes everything other than the E58 portion.

37 **MR. DERISO:** That's right. Yes, it's basically a turn key project for all 22 counties.  
38 That RFP has been released, I believe, last week. The proposals are going to be due mid  
39 February, and once we get a look at those, we'll look at the firms and interview and have some  
40 responses. We've had a huge interest in this and advertised it in the industry publications, and  
41 they go out to about 35,000 professionals in the telecommunication industry globally.  
42 We've had interest from Portugal, Korea, Japan, and from many other companies here in the  
43 states about this project. Although we're advertising with an RFP for services, we're getting a  
44 lot of visibility and PR for Southside about this new technology.  
45 As far as that stands, the proposals will be back mid-February, and then we'll be able to select a  
46 firm that will be, a professional services firm that will handle everything for MBC and make sure

1 that the project is a success.

2 **MS. TERRY:** Question, Mr. Chairman. The second RFP that has the design component  
3 for all of Southside, is that an RFP to get someone to design it and then an RFP out to get  
4 someone to --

5 **DELEGATE HOGAN:** I can answer that question. The second RFP is an A and E for  
6 everything other than the E58 and all the operational pieces that he's just referred to.

7 **MS. TERRY:** Does that mean a total build-out?

8 **DELEGATE HOGAN:** Yes.

9 **MS. TERRY:** What would be the procedures taken by Mid-Atlantic to manage this  
10 contract? We don't have a contract, so I was just wondering don't we need a contract?

11 **DELEGATE HOGAN:** We don't need a contract.

12 **MS. TERRY:** Why?

13 **DELEGATE HOGAN:** We don't need a contract, you have to talk to Frank Ferguson  
14 about that.

15 **MS. TERRY:** I'm talking about from a business point of view, maybe you don't need  
16 one from a legal point of view, but I'm talking about a business point of view. What are we  
17 paying Mid-Atlantic?

18 **MR. DERISO:** I don't think you're paying Mid-Atlantic anything because the role that  
19 we're in --

20 **DELEGATE HOGAN:** -- Let me interrupt. The Tobacco Commission cannot enter  
21 into contractual obligations with someone to do something like this, that's beyond what we do,  
22 we can't have a contract with them. If you want to talk to Frank about that, you're free to do it,  
23 but that's the bottom line.

24 **MS. TERRY:** How do we know what we're being charged for, Mr. Chairman?

25 **MR. PFOHL:** We will have a grant management agreement as we would with any  
26 grantee and the funds to Mid-Atlantic Broadband will be provided on a draw-down  
27 reimbursement basis.

28 **MS. TERRY:** What are the terms of that grant management agreement in terms of what  
29 Mid-Atlantic is to be paid for its role in this project?

30 **MR. PFOHL:** It would be based on the proposal that they submitted to the Commission.  
31 We would start from the standard grant management agreement and if there are terms that need  
32 to be included in that.

33 **MS. TERRY:** What is the standard grant management agreement?

34 **MR. PFOHL:** I'll provide you a copy of that. It's a standard template that the Attorney  
35 General's staff reviews for us and we use with all of our grantees.

36 **MS. TERRY:** This contract --

37 **DELEGATE HOGAN:** -- Excuse me just a minute, we're not going to discuss this  
38 contract here. We've got these three things on the agenda, and that's what we're going to cover.  
39 If you want to take that up at a different meeting, we'll take it up, but we're going to move on  
40 with what we've got here.

41 **MS. TERRY:** Mr. Chairman, all members of the Commission are equal.

42 **DELEGATE HOGAN:** That's a fine argument, and you can have it somewhere else,  
43 Ms. Terry.

44 **MS. TERRY:** I'm not having an argument, Mr. Chairman, I'm requesting information.

45 **DELEGATE HOGAN:** What I'm telling you is that that is not on the agenda here  
46 today. You can request that information from the Commission or whoever you'd like to request

1 it from. We're going to deal with what we've got on the agenda here today, and that's all we're  
2 going to do.

3 **MS. TERRY:** Mr. Chairman, the Commission members should be able to participate in  
4 the development of the agenda next time.

5 **DELEGATE HOGAN:** Well, you can take that up with the Chairman at some point in  
6 the future.

7 **MS. TERRY:** Then I have one more question. Yesterday at the meeting, I think that  
8 Mr. Hudgins, I think said some or one of the parks cost like \$3 million. I was wondering where  
9 those parks are?

10 **DELEGATE HOGAN:** Ms. Terry, that information was released to you and other  
11 members --

12 **MS. TERRY:** -- No, it was --

13 **DELEGATE HOGAN:** -- It was as part of the RFI response we got last time. Every  
14 single person on this committee got it and everyone else had access to it. You can take a look at  
15 it, and I'm sure the staff will be happy to provide you with another copy if you lost the one you  
16 had. That's the information, and it's public knowledge, we discussed it and went over these  
17 RFIs and this thing at Longwood.

18 **MS. TERRY:** I don't recall a discussion of individual projects.

19 **DELEGATE HOGAN:** If you want to talk to the staff and get that package, I suggest  
20 you do it.

21 **MR. HITE:** I don't recall getting that.

22 **DELEGATE HOGAN:** It was in your packet, RFI responses, about this thick. MBC is  
23 in it and everyone else, Looking Glass, and everybody else was in it, four or five of them.

24 **MR. HITE:** Mr. Chairman, I didn't say I didn't get it, I don't recall if I did, but I'd like  
25 another one.

26 **DELEGATE BYRON:** Mr. Chairman, I'm sure that Tim would be more than glad to  
27 spend time with members and go over the detailed kinds of things with an explanation.

28 **MR. CURRIN:** Mr. Chairman, on behalf of the staff, anytime any committee members  
29 would like to see me or talk to me or any part of our staff, we'd be delighted to discuss anything.  
30 I'll come to wherever you are or you can come to Richmond or anywhere you want.

31 **MS. TERRY:** We need to set up meetings, Mr. Chairman, that allow more time for  
32 discussion so we all learn about what's going on. We have a half an hour meeting here and  
33 we're talking about going to the Commission with a multi-million dollar contract. These  
34 meetings need to be held with sufficient time so the committee members all get the same  
35 information at the same time.

36 **DELEGATE BYRON:** Mr. Chairman, the only difference with this and what we  
37 decided at the last meeting was the increase in the matching funds to expand the project. Really  
38 the details and scope of what that was, we had a pretty thorough discussion at the last meeting, I  
39 felt like we did anyway. We went to a great extent to get the language in place. I don't think  
40 we're doing anything that changes from that. We're making this broader and putting more  
41 money in it so they can get the federal funding that they anticipate.

42 **DELEGATE HOGAN:** Thank you, Delegate Byron. Here are the issues: EDA,  
43 because of some changes in their policies, will now approve something approaching \$6 million  
44 basically from Stuart to Emporia in one fell swoop instead of two parts. The question before us  
45 is are we going to match their funds and ask the Commission to match their funds so we can go  
46 ahead and do the whole piece. We have to have that done by January 20<sup>th</sup> so they can move

1 forward.

2 If we don't want to do that, we can stop and say we're not going to do the piece more or less  
3 from South Boston to Emporia. We've already committed to do it from South Boston to Stuart.  
4 Are we going to do it from South Boston to Emporia or not? We have to tell MBC whether or  
5 not we're going to do that. That's really all we have to do today.

6 The rest of these issues we have plenty of time to work out through all the RFP process, which is  
7 what we set in place in our previous several meetings.

8 **MS. TERRY:** For the benefit of the Southwest Virginia people so they'll know, to be in  
9 fairness, we should go into an executive session, Mr. Chairman, and I know the chairman will  
10 resist that. The difference between the two proposals on the table and Farmville far exceeds the  
11 federal money we're getting through this rush agreement with Mid-Atlantic. That's the reason I  
12 was asking for information about what would be anticipated, what they're getting far, far  
13 exceeds.

14 **MR. CURRIN:** On behalf of the staff, I would like to strongly endorse this opportunity  
15 that the federal government has laid out before us and the additional dollars that are available for  
16 us. This gives us an opportunity to leverage additional dollars.

17 **MS. TERRY:** Then I think we should go into executive session so that --

18 **DELEGATE HOGAN:** -- For what purpose?

19 **MS. TERRY:** I'll explain the purpose. So all the Commission members can know the  
20 proprietary information regarding the proposal before the Commission and the relative scale of  
21 federal dollars and the difference in the numbers that have come before the Technology  
22 Committee.

23 **MR. CURRIN:** Counsel, is that sufficient reason to go into executive session?

24 **MS. CUSHMAC:** Yes.

25 **MR. CURRIN:** Do we have the proprietary information available here?

26 **MS. TERRY:** We do as it relates to the two proposals that were set for us at Longwood  
27 relating to the cost of the two proposals.

28 **MR. DERISO:** We signed a nondisclosure with Looking Glass, we've traded, and  
29 we've seen their proposal, and they've seen ours.

30 **MS. TERRY:** My concern is that we had a \$22 million proposal on the table, and the  
31 other proposal, I recall, was 34 million, and the difference between the two proposals is \$12  
32 million. Without knowing specifics of any arrangements with Mid-Atlantic, we're moving into a  
33 proposal not knowing the cost when we had a proposal on the table for 22 million. And we're  
34 talking now about a 12 or a 6 million federal funding, and right now a 12-million gap. We're not  
35 permitted to have a conversation here today and presumably Looking Glass is a subcontractor to  
36 Mid-Atlantic. We're not in a position to know what the management fee will be for this.

37 **DELEGATE HOGAN:** Ms. Terry, if --

38 **MS. TERRY:** -- Please let me just finish. For a company that has expertise in this area  
39 and just finished doing something like this in the State of Iowa.

40 **DELEGATE HOGAN:** That's why we put the clause in there that said we're going to  
41 approve this final RFP before we release funds, we're going to approve the management contact  
42 between MBC and Looking Glass or whoever might be awarded that contract. So we have no  
43 way of moving forward or changing that arrangement, we're still going to review it, and  
44 everybody can say what they want, and we're going to have vote on it and all that. We can't do  
45 that until the RFP comes back, we can't do it. I've tried to say that a couple of times as nicely as  
46 I can, but it's not before us today and we're not going to talk about it anymore. If you don't

1 want to vote to handle this piece of it, then don't vote.

2 **MS. TERRY:** Mr. Chairman, it was not on the agenda at the meeting in Norton, that  
3 meeting changed the direction of the Technology Committee.

4 **DELEGATE WRIGHT:** The agenda item here, and I think we're on the EDA funding,  
5 and there's one sentence in this letter that I think is very important. If we don't do this, we run  
6 the risk of not being able to secure the EDA funding, and that certainly would be a shame. I'd  
7 like to make a motion we move forward with this, the EDA funding that's been requested.

8 **DELEGATE BYRON:** Second.

9 **DELEGATE HOGAN:** Discussion?

10 **MR. OWENS:** Being a rookie on this committee, I am very naïve about what's going  
11 on, but I do request before we disburse any funds on this thing that I get an extensive update and  
12 be brought up to speed on what's happening.

13 **MS. TERRY:** That we have a meeting.

14 **MR. OWENS:** That's right.

15 **MS. TERRY:** Are we agreed that we're going to have a meeting?

16 **DELEGATE HOGAN:** I haven't agreed to any meeting until this RFP comes back.  
17 We'll call one when it's appropriate, and we'll have a chance to discuss it.

18 **MS. TERRY:** I don't have the bylaws, but I would assume that members of the  
19 committee can request a meeting as well.

20 **DELEGATE HOGAN:** You can request it, I'm sure of that, I'm sure the staff will make  
21 sure you get to see everything and get all the background factors on where we are in the last  
22 three years, RFIs and everything.

23 **MR. CURRIN:** I'll make sure you get everything if you don't have it, and then we'll be  
24 delighted, the staff will come down or I'll come down and we can have individual meetings or  
25 meet with any number at any time if that's agreeable.

26 **DELEGATE HOGAN:** We've got a motion and duly seconded. All in favor, say aye  
27 (Ayes). Opposed, like sign (No response). The motion passes.  
28 Now, we need to approve the minutes.

29 **DELEGATE WRIGHT:** I so move.

30 **DELEGATE BYRON:** Second.

31 **DELEGATE HOGAN:** It's been moved and seconded we approve the minutes of the  
32 last meeting. All in favor, signify by saying aye (Ayes). Opposed, like sign (No response).  
33 Thank you.

34 All right. Public comment. Is there anyone from the public that would like to say anything?

35 **MR. ARTHUR:** Basically, this committee's function is to approve the money to move  
36 forward. As of yesterday, per your request, the money from Southside Economic has  
37 contingencies on it. You really can't move forward until this is approved or either contingent  
38 upon all the contingencies. Do you get where I'm going? Explain that to me.

39 **DELEGATE HOGAN:** You're right, I'm trying to remember the motion I made  
40 yesterday.

41 **MR. ARTHUR:** Let me read it to you. The Committee recommended allocating \$2  
42 million from fiscal year '03 Economic Development, set aside fund to increase the award to the  
43 Mid-Atlantic Broadband Cooperative to provide a dollar-for-dollar match for Federal Economic  
44 Development administrative funds for the construction of the Southside Comprehensive  
45 Broadband Initiative, conditioned upon Commission approval of a funding plan to obligate funds  
46 sufficient to construct the entire Southside.

1 **DELEGATE HOGAN:** You're right.

2 **MS. TERRY:** You had a time limit in the one yesterday.

3 **MR. ARTHUR:** That was basically a two-year deal.

4 **MR. OWEN:** I wasn't familiar with this, does this make the Commission eight million  
5 or part of the six?

6 **MR. ARTHUR:** This is part of the six.

7 **DELEGATE HOGAN:** Yes.

8 **MR. ARTHUR:** This money gives him enough funds to move forward.

9 **MR. OWEN:** Technology did not have enough on its own?

10 **DELEGATE HOGAN:** No. To a certain extent, we want to hold this Southside money  
11 separate from the overall Technology budget, we don't want to put it back in there and have to  
12 split it up again.

13 **MR. ARTHUR:** This was really the entire Southside coming together, thinking that this  
14 project was important enough to take some of our Economic Development money and put into it  
15 because we think this is Economic Development in a way.

16 **MR. OWEN:** I was unclear if that was an additional two.

17 **MR. ARTHUR:** No, it's the two he's counting on to get enough money.

18 **DELEGATE HOGAN:** We're approving a concept. We need to go to or we need to  
19 ask the Commission for a resolution supporting the funding of the whole ball of wax. They're  
20 already basically in '05, and we get three years '07, we could say that the comprehensive  
21 regional backbone plan to reach each county in Southside Virginia shall be implemented no later  
22 than December, of '07 subject to annual appropriations and performance agreements with the  
23 Tobacco Commission resources allocated to the broadband initiative by the Board of the  
24 Virginia Tobacco Commission, and it goes on from there. Does that cover it?

25 **MR. ARTHUR:** I think so. I just didn't want to get the cart before the horse.

26 **DELEGATE HOGAN:** I think you're right, I appreciate that. Do we want to send that  
27 resolution on to the full Commission? Do you want to make a motion, Tom?

28 **MR. ARTHUR:** Yes, I'll make that motion.

29 **DELEGATE WRIGHT:** I'll second it.

30 **DELEGATE HOGAN:** All in favor, signify by saying aye (Ayes). Those opposed, like  
31 sign (No response). We'll take it to the full Commission.

32 **MR. PFOHL:** Mr. Chairman, point of clarification. The Technology Committee budget  
33 this year is \$5 million, of which 3.35 million is obligated to Mid-Atlantic Broadband in October  
34 at the meeting in Wise. That leaves 1.65 million unobligated balance. To clarify Delegate  
35 Wright's motion that was approved, does that obligate the full 1.65 for the EDA match?

36 **DELEGATE HOGAN:** Plus our two when we get there.

37 The truth of it is, as this project approaches, not counting other funding, and I think the total  
38 project is more extensive. We're probably going to have to put in 20 million. I think Southwest,  
39 who's already gotten five last time, is probably going to need another ten, from what I've been  
40 told, to finish what they need to do. We're going to have to work out an arrangement with them.  
41 The point is to get this broadband region-wide, and that's a priority for the Commission. I hope  
42 we'll have the support from the full Commission so we're not picking winners and losers.  
43 All right. Public comment?

44 **MS. TERRY:** Mr. Chairman, I'd like to raise the whole issue of the compensation for  
45 Mid-Atlantic Broadband and request in addition to having a meeting to discuss all of this, the  
46 management contracts, and have a meeting to discuss the makeup of the board, our input for the

1 composition of the board. That ought to be something that is, or that's an issue that should be  
2 handled by this full committee.

3 **MR. ARTHUR:** I understand we're supposed to appoint a couple of members to the  
4 board.

5 **DELEGATE HOGAN:** We have to approve that, that's something we need to cover.

6 **MR. CURRIN:** It was in the minutes of the last meeting.

7 **MS. TERRY:** Alternative arrangements for putting the board together. We need to have  
8 a meeting to discuss it.

9 **DELEGATE HOGAN:** We'll discuss that when we discuss the RFP.

10 **MR. ARTHUR:** Motion to adjourn.

11 **DELEGATE HOGAN:** There's a motion to adjourn, we're adjourned.  
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14 **PROCEEDINGS CONCLUDED.**  
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18 **CERTIFICATE OF THE COURT REPORTER**  
19

20  
21 I, Medford W. Howard, Registered Professional Reporter and Notary Public for the State  
22 of Virginia at Large, do hereby certify that I was the Court Reporter who took down and  
23 transcribed the proceedings of the Southside Technology Subcommittee meeting, when held on  
24 Tuesday, January 13<sup>th</sup>, 2004, at 9:00 o'clock a.m., in the Fourth Floor West Conference Room,  
25 General Assembly Building, Richmond, Virginia.

26 I further certify this is a true and accurate transcript to the best of my ability to hear and  
27 understand the proceedings.

28 Given under my hand this 20<sup>th</sup> day of January, 2004.  
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Medford W. Howard  
33 Registered Professional Reporter  
34 Notary Public for the State of Virginia at Large  
35

36 My Commission Expires: October 31, 2006.